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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/849,733	05/20/2004	Rowland D. Hunt	CHI.1001CONT	7344
34744	7590	08/30/2005	EXAMINER	
THE LAW OFFICE OF RICHARD S ERBE P.O. BOX 418 5380 SENECA PLACE SIMI VALLEY, CA 93062			BUI, LUAN KIM	
		ART UNIT		PAPER NUMBER
				3728

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

TAK

Office Action Summary	Application No.	Applicant(s)
	10/849,733	HUNT, ROWLAND D.
	Examiner	Art Unit
	Luan K. Bui	3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 21-40 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/20/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

Applicant is required to update the current status of the related applications as indicated in the cross reference to related applications on page 1 of the instant patent application.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 36 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 36, the phrase "said support rim" lacks proper antecedent basis. It appears that claim 36 is depended on claim 35.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 21-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis (2,915,097; hereinafter Lewis'097) in view of Joor II (3,521,416) and Ulm et al. (3,747,381; hereinafter Ulm'381). Lewis'097 discloses a flexible container (1) comprising a base portion (3, 7, 36) for engaging a supporting surface, a side portion (37) extending upwardly from the base portion, a non-buckling supporting post system (8) mounted over a substantially central portion of the base portion and supported by the supporting surface, and a sloped upper portion (38)

Art Unit: 3728

opposite the base portion and extending upwardly from the side portion to engage the supporting post system. Lewis'097 further discloses the supporting post system being confined within the base portion and the side portion and the other limitations of the claims except for the supporting post system being carried a vertical load and the load being a compression load.

Joor II shows a container comprising a base portion (17), a side portion (16), a sloped upper portion (19) and a supporting post system (18) mounted over a substantially central portion of the base portion for supporting the sloped upper portion. Since the weight of the upper portion acted on the supporting post system, the supporting post system carried a vertical load and the vertical load is a compression load. Ulm'381 suggests a container (10) comprising a base portion (13), a side portion (11), a sloped upper portion (19) and a supporting post system (14) mounted over a substantially central portion of the base portion for supporting the sloped upper portion. Since the weight of the upper portion acted on the supporting post system, the supporting post system carried a vertical load and the vertical load is a compression load.

It would have been obvious to one having ordinary skill in the art in view of Joor II and Ulm'381 to modify the supporting post system of Lewis'097 so the supporting post system carries a vertical load and the vertical load is a compression load to prevent the supporting post system from buckling.

As to claim 22, Lewis'097 discloses an upper cap (6, 50) positioned under the sloped upper portion. It would have been obvious to one having ordinary skill in the art in view of Lewis'097 to modify the upper cap so the upper cap is positioned on the sloped upper portion for better protecting the contents.

Art Unit: 3728

As to claim 23, a plurality of brace rods/cables (10).

As to claims 25, 31 and 34, prior of providing the upper cap, the container comprises an entry/exit opening in the sloped upper portion and the container is a partially-open flexible bag as claimed.

As to claims 26, 27, 32 and 33, Lewis'097 also discloses a covering sheet/outer support fabric (60).

As to claims 28 29, Lewis'097 discloses a plurality of tabs (41, 43) which are considered equivalent to a support rim positioned over the base portion as claimed and a plurality of cables (46) attaching the support rim to the supporting post system.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (571) 272-4552. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ms. Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (571) 273-8300 for Formal papers and After Final communications.



Luan K. Bui
Primary Examiner

lkb
August 25, 2005